

ASSEMBLY BILL

No. 1953

Introduced by Assembly Member Vargas

February 12, 2004

An act to amend Section 15027 of the Insurance Code, relating to public insurance adjusters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1953, as introduced, Vargas. Public insurance adjusters: contracts.

Existing law provides for the licensing and regulation of public insurance adjusters by the Insurance Commissioner. Existing law prohibits a public adjuster from acting in this capacity without having first entered into a contract, in writing, on a form approved by the commissioner and executed in duplicate by the public adjuster and the insured or a duly authorized representative. A violation of the provisions regulating public insurance adjusters is a crime.

This bill would require that the contract include a provision disclosing the percentage of the insured's claim, or other fee, that the public adjuster will charge for his or her services, and would further require that the adjuster obtain the initials of the insured next to this provision. It would prohibit a public adjuster from entering into a contract with any insured unless one week has elapsed since the occurrence of the event on which the claim is based, or the insured represents that he or she has consulted with the insurance adjuster for the insurer regarding the claim, whichever is earlier. A violation of these provisions would be a crime. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15027 of the Insurance Code is
2 amended to read:

3 15027. (a) No licensee shall, directly or indirectly, act within
4 this state as a public insurance adjuster without having first entered
5 into a contract, in writing, on a form approved by the insurance
6 commissioner and executed in duplicate by the public adjuster and
7 the insured or a duly authorize representative. One copy of this
8 contract shall be kept on file by the licensee, available at all times
9 for inspection, without notice, by the commissioner or his or her
10 duly authorized representative.

11 (b) No licensee shall solicit or attempt to solicit a client for
12 employment during the progress of a loss-producing occurrence.

13 (c) No licensee shall solicit a client for employment between
14 the hours of 6 p.m. and 8 a.m.

15 (d) No licensee shall use any form of contract other than that
16 approved by the commissioner and which contains ~~a~~ *each of the*
17 *following*:

18 (A) A provision allowing the client to rescind the contract by
19 written notice to the licensee within 72 hours of signature and
20 includes in ~~in~~ 10 point type the statement: "WE REPRESENT
21 THE INSURED ONLY."

22 (B) *A provision disclosing the percentage of the insured's*
23 *claim, or other fee, that the licensee will charge for his or her*
24 *services. The licensee shall obtain the initials of the insured next*
25 *to this provision.*

26 (e) No licensee shall knowingly make any false report to his or
27 her employer or divulge to any other person, except as he or she
28 may be required by law to do so, any information acquired by him



1 or her except at the direction of the employer or a client for whom
2 the information is obtained.

3 (f) No licensee shall use a badge in connection with the official
4 activities of the licensee's business.

5 (g) No licensee shall permit an employee or agent in his or her
6 own name to advertise, engage clients, furnish reports, or present
7 bills to clients, or in any manner whatever to conduct business for
8 which a license is required under this chapter.

9 (h) *A licensee shall not enter into a contract under this section*
10 *with any insured unless one week has elapsed since the occurrence*
11 *of the event on which the claim is based, or the insured represents*
12 *that he or she has consulted with the insurance adjuster for the*
13 *insurer regarding the claim, whichever is earlier.*

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

